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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.150 OF 2007

Pandurang Bavrao Pagare Petitioner
versus
Union of India and others Respondents

Mr.S.S.Punde for petitioner.
Mr.T.S.Pandian for respondents 1 and 2.

CORAM : A.S.OKA, J.

DATE : 24th April 2007

PC :

1. Submissions of the advocates appearing for the parties were heard on the last date. An order of eviction was passed by the Estate Officer against one Shri K.C.Vyankat Swami in respect of shop no.18 situated opposite Kurla Railway Station, Kurla (West), Mumbai. The order of eviction was passed in exercise of powers under section 5 of Public Premises (Eviction of unauthorised Occupants) Act, 1971. The Estate Officer accepted the case made out by the Railways that the said Shri K.C.Vyankat Swami was unauthorizedly running the said shop. It is observed in the said order that the said Shri K.C

Vyankat Swami did not appear before the Estate Officer and the present applicant Pandurang Pagare claiming to be the constituted attorney of said Vyankat Swami appeared before him. Against the order passed by the Estate Officer, an appeal was preferred before the learned Principal Judge of the City Civil Court. The said appeal has been dismissed. The applicant has taken exception to the aforesaid orders by filing this revision application.

2. After having heard the advocates for the parties I find that there is no error in the order of eviction passed by the Estate Officer and confirmed by the Appellate Court. The present applicant relied upon a Power of Attorney executed by the said Vyankat Swami in which it is recorded that the said Vyankat Swami has relinquished all his right, title and interest in respect of the disputed shop in the year 1979. The applicant claims to be in possession of the suit shop. The Appellate Court found that the said Vyankat Swami had already removed himself in the year 1979.

3. The present applicant could not establish that his possession is lawful. The plot on which

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shop no.18 is situated is a part of the property owned by the Railways. The present applicant could not establish his right to occupy the suit shop.

4. No fault can be found with the impugned orders passed by the Estate Officer as well as by the Appellate Court. There is no merit in the revision application and the same is rejected. Learned advocate for the applicant prays that the order of eviction may not be implemented for a reasonable period. Prayer is opposed by the advocate for respondents. Considering the facts and circumstances of the case, the order of eviction shall not be executed for a period of six weeks from today.

(A.S.OKA, J.)